

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**CANARY WALKER, ADMINISTRATRIX OF
THE ESTATE OF ROYAL PERZIL WALKER,
DECEASED, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES
OF ROYAL PERZIL WALKER, DECEASED**

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:05CV13-P-B

**YAMAHA MOTOR CORP., U.S.A.;
HILTON TARVER, INDIVIDUALLY;
GLENDY TARVER, INDIVIDUALLY;
HILTON TARVER AND GLENDY TARVER
D/B/A GREENVILLE MOTOR SPORTS;
AND JOHN DOES I-X**

DEFENDANTS

ORDER

This cause is before the Court on the plaintiff's Motion to Remand [7-1]. The Court, having reviewed the motion, the response, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

The Court has reviewed the parties' briefs and supporting submissions and finds that the facts and legal issues raised by this case are identical to those addressed by this Court in Burton v. Werner Co. f/k/a Werner Manufacturing Co., Inc., 335 F. Supp.2d 734 (N.D. Miss. 2004). The Court hereby adopts the reasoning and analysis set forth in Burton, *supra*, and finds that the resident defendants, Hilton and Glenda Tarver individually and Hilton and Glenda Tarver d/b/a Greenville Motor Sports, have been fraudulently joined in an effort to defeat diversity jurisdiction.¹ Accordingly, the Court

¹ See also Lott v. Chickasaw Equipment Co., 352 F. Supp.2d 749 (N.D. Miss. 2005); Henderson v. Ford Motor Co., 340 F. Supp.2d 722 (N.D. Miss. 2004).

finds that the plaintiff's Motion to Remand [10-1] is not well-taken and should be denied. Furthermore, inasmuch as the Court's finding is premised on the fraudulent joinder of the above-referenced defendants, said defendants should be dismissed with prejudice as party defendants.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the plaintiff's Motion to Remand [7-1] is not well-taken and should be, and hereby is, DENIED. IT IS FURTHER ORDERED that Hilton Tarver, Glenda Tarver and Hilton Tarver and Glenda Tarver d/b/a Greenville Motor Sports should be, and hereby are, DISMISSED WITH PREJUDICE as party defendants in this action. IT IS FURTHER ORDERED that the stay imposed by the Magistrate Judge pending a ruling on the instant motion is hereby LIFTED. IT IS FURTHER ORDERED that the parties are to contact Magistrate Judge Eugene M. Bogen within ten (10) days of the entry of this Order in order to schedule an initial case management conference.

SO ORDERED, this the 24th day of August, 2006.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE